



Review

Author(s): John D. Millett

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BUREAUCRACY IN A DEMOCRACY. By Charles S. Hyneman. New York: Harper and Brothers, 1950. Pp. xv, 586. \$4.50.

This volume by Professor Hyneman of Northwestern University is concerned with a vital aspect of present day government. Given large scale administrative effort by government, which is surely a noteworthy and perhaps an inescapable characteristic of modern society, how is that administrative operation to be kept within the bounds of popular control? Is the bureaucratic state incompatible with the democratic state or, more particularly, with the past traditions and present protestations of our governmental system? These are far-reaching questions. The author endeavors to answer them from his years of study as a political scientist and his recent extensive experience in federal war-time administration.

Mr. Hyneman is properly careful in attempting to define democratic government. He ends by citing six essentials: an inclusive electorate, methods of public information, methods of popular organization, methods of recording the will of the electorate, a governmental structure enabling elected officials to "run the government," and a "state of mind" which causes those who have governmental authority to exercise it in keeping with their understanding of popular desire. After canvassing the most serious means by which a bureaucracy might undermine popular government, the author argues that our safeguards are the devices for popular control and direction which insure popular supremacy. The remaining parts of the book are devoted to a description and an evaluation of these devices. All are treated with a sprightly touch, a sense of humor, and an insight which make the volume a constant source of good reading.

The discussion of the relation of Congress to bureaucracy is carefully organized and systematically presented. The chapter on Congress and administrative organization and the chapter on general legislation governing administrative conduct are especially useful.

Professor Hyneman belongs to that school of thought which looks upon the President primarily as a political figure rather than as an administrative official. Twenty-five years ago Mr. W. F. Willoughby of the Brookings Institution proposed that under our governmental structure the President should be considered the "general manager" of administrative activities. To be sure, if we are to have a "general manager," the authority must be lodged in the chief executive. But any such conception of the presidential role is too narrow. More importantly, the President must be a political leader before he can be or should be a "general manager." The author redresses an imbalance by emphasizing that the President's role vis-a-vis bureaucracy is primarily one of giving it popular direction.

Mr. Hyneman treats three central staff agencies as instruments of

presidential control and direction. These are the Bureau of the Budget, the General Accounting Office, and the Civil Service Commission. To many, the inclusion of the General Accounting Office in this array will appear realistic but not legalistic; Congress has insisted in two recent pieces of legislation upon describing the G. A. O. as an "arm of the legislature." Presumably he omitted the war-time Office of War Mobilization and Reconversion, the pre-war National Resources Planning Board, and the post-war Council of Economic Advisers from his discussion because so little was known about these agencies when he wrote. The omission is unfortunate.

The author makes no comment upon the paradox of "bureaucratizing" the chief executive in order to control and direct the bureaucracy of operating agencies. Nor does he clearly identify the essential task of the central staff agencies, which, it seems to me, is to help the President and Congress fix broad limits to the work of administrative agencies. These limits are crucial, for they determine how much of our social effort is to be expended through government rather than through other instruments. It is government, industry, agriculture, and many other units which produce the sum total of our goods and services, our gross national product. And one of the major decisions we must make is how much of this effort shall be government's, and within that over-all area how the pie shall be divided among agriculture, transportation, veterans' care, and *of course* national security.

One omission of the author's is strange. There is no mention of judicial review as another device whereby our governmental system endeavors to keep administrative discretion within boundaries.

At the end of the book, Professor Hyneman, like so many political scientists before him, speculates on how chief executive and legislature might do a better job in keeping bureaucracy responsible. He proposes a "central council" to bring together congressional leaders and department heads of the President. This council would review basic issues and take a joint stand on fundamental policies. The prescription seems faulty.

No one pretends that executive-legislative relations in our government are not cumbersome in operation and oftentimes more productive of controversy than concert. Yet a parliamentary system, or any compromise version of it, seems unsuited to our political tradition and environment. Under most circumstances our Presidential system appears to be fairly satisfactory. Tinkering with the machinery cannot compensate for the personality characteristics of a President or the members of Congress, for political confusion in troublesome times, for doubt and hesitancy in an uncharted sea. After all, Parliament had its Neville Chamberlain.

Experience seems to be the best guide in understanding how our structure of government works. We know from experience that that structure

cannot be easily altered. This is one of its virtues. The malady will have to be much more serious than Mr. Hyneman believes it now is before his medicine has much chance of popular acceptance.

But these last comments must not detract from a fair verdict upon the volume as a whole. Professor Hyneman has provided students of government with an important discussion of a critical problem: the adequacy of the means for keeping present day bureaucracy responsible to popular will. The record is reassuring.

JOHN D. MILLETT

Professor of Public Administration, Columbia University; Executive Director of the Commission on Financing Higher Education.

A COMPARATIVE SURVEY OF ANGLO-AMERICAN AND LATIN-AMERICAN LAW. By Phanor J. Eder. New York: New York University Press; London: Oxford University Press, 1950. Pp. xii, 257. \$6.00.

In approaching Mr. Eder's book, the reader should bear in mind that it is an expansion of a series of lectures originally delivered at a conference in Latin America and then adapted into an introductory course for Latin-American lawyers pursuing comparative studies in the United States. Accordingly, the reader will find an illuminating discussion of fundamentals, of historical and philosophical backgrounds, but he will receive no material assistance on any specific problems of Latin-American law or conflicts of law with which he may be concerned. Altogether, he may relax into a most interesting and palatable collection of essays, tastefully spiced by the author's wide experience, his gentle sense of humor, his particular prejudices, his scholarly admiration for our great writers on the English common law and his addiction to Shakespeare.

In his Introduction, Mr. Eder contrasts the Latin-American lawyer's love of logic and precision in the law with the English common lawyer's preference for the dictates of experience. In the ensuing discussion he makes an impressive case for the superiority of the English common law system over the fixed and inflexible codes of Latin America, applied by Latin-American courts under the rules of pure logic. He observes quite accurately that Latin-Americans dislike the vagueness which characterizes our "reasonableness" concepts and our precepts of equity. As between certainty and justice, he says, they prefer certainty. Yet, paradoxically, the first thing that strikes the Anglo-American lawyer in his initial experience with Latin-American legal instruments, even court decrees, is their broad generalizations and, often, the patent ambiguity of their language. One cannot help wishing that so qualified a person as Mr. Eder had explained this apparent